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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0578-AGR-E **TCEQ ID:** RN101513588 **CASE NO.:** 33192
RESPONDENT NAME: Jim Gaylon Beyer dba Beyer Dairy 1

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Beyer Dairy 1, Located on the southeast side of Farm-to-Market Road ("FM") 219 at the intersection of FM 219 and FM 2303, Erath County</p> <p>TYPE OF OPERATION: Dairy</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Jim Gaylon Beyer, Owner, Jim Gaylon Beyer dba Beyer Dairy 1, 8892 South United States Highway 377, Dublin, Texas 76446 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: March 7, 2007 Date of NOE Relating to this Case: March 16, 2007 (NOE) Background Facts: This was a routine records review. One violation was documented. WATER Failure to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB"). Specifically, a CNMP was submitted to the TSSWCB for review, but the Respondent failed to respond to requests for additional information from the TSSWCB and the TCEQ [30 Tex. ADMIN. CODE § 321.42(s)].	Total Assessed: \$2,160 Total Deferred: \$432 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid to General Revenue: \$1,728 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002	Ordering Provisions: The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, provide complete and accurate information regarding the CNMP as requested by the TSSWCB; b. Respond completely and adequately, as determined by the TSSWCB, to all requests for information concerning the CNMP within 30 days after the date of such requests or by any other deadline specified in writing; c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision a. to the addresses referenced in Ordering Provision d.; and d. Within 120 days after the effective date of this Agreed Order, submit certification of compliance that the Facility has developed and is operating under a CNMP, certified by the TSSWCB.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ DATES	Assigned	19-Mar-2007	Screening	4-Apr-2007	EPA Due	
	PCW	4-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Jim Gaylon Beyer dba Beyer Dairy 1		
Reg. Ent. Ref. No.	RN101513588		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33192	No. of Violations	1
Docket No.	2007-0578-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **TOTAL \$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **8% Enhancement** **Subtotals 2, 3, & 7** **\$160**

Notes The penalty is enhanced due to four prior NOV's with violations not same or similar to those cited in this action.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts **\$759** **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$10,000** ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,160**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$2,160**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$2,160**

DEFERRAL

20% Reduction **Adjustment** **-\$432**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,728**

Screening Date 4-Apr-2007

Docket No. 2007-0578-AGR-E

PCW

Respondent Jim Gaylon Beyer dba Beyer Dairy 1

Policy Revision 2 (September 2002)

Case ID No. 33192

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101513588

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 8%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to four prior NOVs with violations not same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 4-Apr-2007

Docket No. 2007-0578-AGR-E

PCW

Respondent Jim Gaylon Beyer dba Beyer Dairy 1

Policy Revision 2 (September 2002)

Case ID No. 33192

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101513588

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 321.42(s)

Violation Description

Failed to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB"). Specifically, a CNMP was submitted to the TSSWCB for review, but the Respondent failed to respond to requests for additional information from the TSSWCB and the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

58 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two monthly events are recommended from the February 5, 2007 deadline to submit requested information to the TSSWCB until the April 4, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$759

Violation Final Penalty Total \$2,160

This violation Final Assessed Penalty (adjusted for limits) \$2,160

Economic Benefit Worksheet

Respondent Jim Gaylon Beyer dba Beyer Dairy 1
Case ID No. 33192
Reg. Ent. Reference No. RN101513588
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Dec-2006	31-Jan-2008	1.1	\$36	\$723	\$759
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs:

Estimated cost to develop and implement a comprehensive nutrient management plan. Date required is the date the plan was required to be certified and implemented. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

\$10,000

TOTAL

\$759

Compliance History

Customer/Respondent/Owner-Operator:	CN602764755	BEYER, JIM GAYLON	Classification: AVERAGE	Rating: 5.50
Regulated Entity:	RN101513588	BEYER DAIRY 1	Classification: AVERAGE	Site Rating: 1.67
ID Number(s):	WASTEWATER AGRICULTURE WASTEWATER AGRICULTURE	PERMIT EPA ID	WQ0003234000 TX0123765	
Location:	LOCATED ON SE SIDE OF FM 219 AT THE INTX OF FM 219 & FM 2303, ERATH CO, TX			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 11, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 04, 2002 to April 04, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Jim Gaylon Beyer
4. If Yes, who was/were the prior owner(s)? The Edith E. Beyer Regular Marital Trust
Estate of Jack Beyer
5. When did the change(s) in ownership occur? 10/01/2006
10/01/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 07/21/2003 (140584)
2 07/01/2004 (274376)
3 07/29/2005 (402645)
4 01/05/2006 (451039)
5 03/29/2006 (452938)
6 02/26/2007 (541768)
7 03/15/2007 (543339)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/04/2004 (274376)

Self Report? NO
Citation: 30 TAC Chapter 321, SubChapter B 321.35(e)
Description: Failure to add new operator to the TPDES registration as required.
Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 321, SubChapter B 321.42(j)
Description: Failure to submit soil testing results of all samples within 60 days of the date the samples were taken
Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 321, SubChapter B 321.41(d)
Description: Failure to provide quarterly inspection reports of designated equipment and facility areas
Classification: Minor

Date: 07/29/2005 (402645)

Self Report? NO
Citation: 30 TAC Chapter 321, SubChapter B 321.42(j)
Description: Failure to submit soil testing results of all samples within 60 days of the date the samples were taken
Classification: Minor

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(11)
Description: Failure to maintain the required 25-year, 24-hour storm water storage capacity within the retention control structure.

Date: 03/17/2006 (452938)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.35(e)
Description: Failure to add new operator to the TPDES registration as required.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.41(d)
Description: Failure to provide quarterly inspection reports of designated equipment and facility areas

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.39(f)(28)(G)
Rqmt Prov: PERMIT (V)
Description: Failure to take soil samples from each land management unit owned, operated or controlled by this regulated entity and utilized at any time for waste and/or wastewater application annually.

Date: 01/25/2007 (541768)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.40(1)
Description: Failure to maintain vegetative cover and control waste accumulation at the dry cow feeding area.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JIM GAYLON BEYER DBA
BEYER DAIRY 1
RN101513588**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0578-AGR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jim Gaylon Beyer dba Beyer Dairy 1 ("Mr. Beyer") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Beyer appear before the Commission and together stipulate that:

1. Mr. Beyer owns and operates a dairy located on the south side of Farm-to-Market Road ("FM") 219 at the intersection of FM 219 and FM 2303 in Erath County, Texas (the "Facility").
2. Mr. Beyer has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Mr. Beyer agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Beyer is subject to the Commission's jurisdiction.
4. Mr. Beyer received notice of the violations alleged in Section II ("Allegations") on or about March 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Beyer of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand One Hundred Sixty Dollars (\$2,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Beyer has paid One Thousand Seven Hundred Twenty-Eight Dollars (\$1,728) of the administrative penalty and Four Hundred Thirty-Two Dollars (\$432) is deferred contingent upon Mr. Beyer's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Beyer fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Beyer to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Beyer have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Beyer has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Beyer is alleged to have failed to develop and operate under a comprehensive nutrient management plan ("CNMP") certified by the Texas State Soil and Water Conservation Board ("TSSWCB"), in violation of 30 TEX. ADMIN. CODE § 321.42(s), as documented during a record review conducted on March 7, 2007. Specifically, a CNMP was submitted to the TSSWCB for review, but Mr. Beyer failed to respond to requests for additional information from the TSSWCB and the TCEQ.

III. DENIALS

Mr. Beyer generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Beyer pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Beyer's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jim Gaylon Beyer dba Beyer Dairy 1, Docket No. 2007-0578-AGR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Mr. Beyer shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, provide complete and accurate information regarding the CNMP as requested by the TSSWCB to:

Texas State Soil and Water Conservation Board
Attn: Mr. Joe Ballard
611 East Blackjack
Dublin, Texas 76446

- b. Respond completely and adequately, as determined by the TSSWCB, to all requests for information concerning the CNMP within 30 days after the date of such requests or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a. to the addresses referenced in Ordering Provision No. 2.d. below;
- d. Within 120 days after the effective date of this Agreed Order, submit certification of compliance that the Facility has developed and is operating under a CNMP certified by the TSSWCB. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Beyer. Mr. Beyer is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Beyer fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Beyer's failure to comply is not a violation of this Agreed Order. Mr. Beyer shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Beyer shall notify the Executive Director within seven days after Mr. Beyer becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Beyer shall be made in writing to the Executive Director. Extensions are not effective until Mr. Beyer receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Beyer in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Beyer, or three days after the date on which the Commission mails notice of the Order to Mr. Beyer, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Jim Gaylon Beyer dba Beyer Dairy I
DOCKET NO. 2007-0578-AGR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

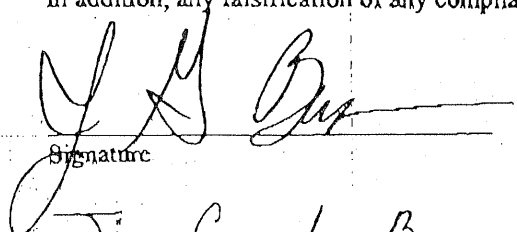

For the Executive Director8/24/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature6-15-07
Date

Jim Gaylon Beyer

Name (Printed or typed)

Authorized Representative of

Jim Gaylon Beyer dba Beyer Dairy I

Owner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

